

REMARKS

Claims 1-40 are pending. Claims 1, 5, 23 and 31-32 are amended herein. No new matter has been added as a result of the claim amendments. Support for the claim amendments can be found at least on page 7, lines 15-17, of the instant application.

Drawings

The specification has been amended to address the objections raised in the instant Office Action, such that drawing amendments are unnecessary.

Specification

The specification has been amended to address the objections raised in the instant Office Action.

Claim Objections

Claims 5 and 31 are amended herein to address the objections raised in the instant Office Action.

35 U.S.C. § 102(e) Rejections

According to the instant Office Action, Claims 1-2, 4, 6, 9, 11, 13-15, 18, 23-24, 26 and 28-31 are rejected under 35 U.S.C. § 102(e) as being unpatentable over Carrott et al. ("Carrott;" U.S. Patent No. 6,909,792). The Applicant has reviewed the cited reference and respectfully submits that it does not show or suggest the present claimed invention.

Independent Claim 1 recites a “visual sensor comprising an emitter and sensor of light” (emphasis added). Independent Claim 23 recites a similar limitation. Carrott, on the other hand, only teaches imaging modalities that do not include light emitters/sensors. Applicant respectfully submits that this difference between the claimed invention and Carrott is neither trivial nor obvious. For example, the depth mentioned in the claims refers to the distance to the surface of an object while the depth mentioned in Carrott refers to the depth within (below the surface of) an object.

According to the Federal Circuit, “[a]nticipation requires the disclosure in a single prior art reference of each claim under consideration” (W.L. Gore & Assocs. v. Garlock Inc., 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983)). As stated by the Federal Circuit, the prior art reference must disclose each element of the claimed invention “arranged as in the claim” (Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984)). Carrott does not disclose each element of the claimed invention and thus does not anticipate the claimed invention.

In summary, Applicant respectfully submits that Carrott does not show or suggest the limitations of independent Claims 1 and 23, and that these claims are in condition for allowance. Claims 2, 4, 6, 9, 11, 13-15, 18, 24, 26 and 28-31 are dependent on either Claim 1 or 23 and recite additional limitations. As such, Applicant also respectfully submits that Carrott does not show or suggest the additional claimed features of the present invention as recited in Claims 2, 4, 6, 9, 11, 13-15, 18, 24, 26 and 28-31, and that these claims are also in condition for allowance as being dependent on an allowable base claim. Therefore, the

Applicant respectfully asserts that the basis for rejecting Claims 1-2, 4, 6, 9, 11, 13-15, 18, 23-24, 26 and 28-31 under 35 U.S.C. § 102(e) is traversed.

35 U.S.C. § 103(a) Rejections

Claims 5, 7-8, 32-33, 35-37 and 39-40

According to the instant Office Action, Claims 5, 7-8, 32-33, 35-37 and 39-40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Carrott. The Applicant has reviewed the cited reference and respectfully submits that it does not show or suggest the present claimed invention.

Claims 5 and 7-8 are dependent on independent Claim 1, and hence by demonstrating that Carrott does not show or suggest the limitations of Claim 1, it is also demonstrated that Carrott does not show or suggest the limitations of Claims 5 and 7-8. As mentioned above, Claim 1 recites a “visual sensor comprising an emitter and sensor of light” (emphasis added). Independent Claim 32 recites a similar limitation. Claims 33, 35-37 and 39-40 are dependent on Claim 32.

As presented above, Applicant respectfully submits that Carrott does not show or suggest a light sensor/emitter and thus does not show or suggest the limitations of independent Claims 1 and 32.

Furthermore, the Examiner is reminded that, to rely on a reference under 35 U.S.C. § 103(a), the reference must be analogous prior art. The reference must either be in the field of the Applicant’s endeavor or, if not, then be reasonably pertinent to the particular problem with which the invention is

concerned (please see MPEP § 2141.01(a)). Applicant respectfully submits that the Carrott reference satisfies neither of these criteria. Applicant respectfully asserts that Carrott is non-analogous art and that its use as a reference in a 35 U.S.C. § 103(a) rejection is improper.

For any or all of the reasons above, Applicant respectfully submits that Carrott does not show or suggest the limitations of independent Claims 1 and 32, and that these claims are in condition for allowance. Claims 5, 7-8, 33, 35-37 and 39-40 are dependent on either Claim 1 or 32 and recite additional limitations. As such, Applicant also respectfully submits that Carrott does not show or suggest the additional claimed features of the present invention as recited in Claims 5, 7-8, 33, 35-37 and 39-40, and that these claims are also in condition for allowance as being dependent on an allowable base claim. Therefore, the Applicant respectfully asserts that the basis for rejecting Claims 5, 7-8, 32-33, 35-37 and 39-40 under 35 U.S.C. § 103(a) is traversed.

Claims 3, 10, 12, 16-17, 19-22, 25, 27, 34 and 38

According to the instant Office Action, Claims 3, 10, 12, 16-17, 19-22, 25, 27, 34 and 38 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Carrott in view of Li et al. ("Li;" U.S. Patent Application Publication No. 2003/0108244). The Applicant has reviewed the cited references and respectfully submits that they do not show or suggest the present claimed invention.

Claims 3, 10, 12, 16-17, 19-22, 25, 27, 34 and 38 are dependent on independent Claim 1, 23 or 32, and hence by demonstrating that Carrott and Li

do not show or suggest the limitations of the independent claims, it is also demonstrated that Carrott and Li do not show or suggest the limitations of Claims 3, 10, 12, 16-17, 19-22, 25, 27, 34 and 38. As mentioned above, Claim 1 recites a “visual sensor comprising an emitter and sensor of light” (emphasis added). Independent Claims 23 and 32 each recite a similar limitation.

As presented above, Carrott does not show or suggest a light sensor/emitter and thus does not show or suggest the limitations of independent Claims 1, 23 and 32.

Furthermore, as presented above, Applicant respectfully asserts that Carrott is non-analogous art, and that its use as a reference in a 35 U.S.C. § 103(a) rejection is improper. Li, by itself, clearly does not show or suggest all the limitations of the present claimed invention.

Moreover, even if Carrott is considered, Applicant respectfully submits that the combination of Carrott and Li would not show or suggest the limitations of independent Claims 1, 23 and 32. Applicant respectfully submits that Carrott and Li, alone or in combination, do not show or suggest “receiving depth data ... comprising information relating to a distance from a visual sensor to a portion of said object ..., said visual sensor comprising an emitter and sensor of light” as recited in Claim 1 and as similarly recited in Claims 23 and 32. Neither of the cited references, nor the combination thereof, teaches the acquisition of depth data related to the distance to a visual sensor such as the one claimed. According to MPEP § 2106: “Office personnel may not dissect a claimed

invention into discrete elements and then evaluate the elements in isolation. Instead, the claim as a whole must be considered" (emphasis in original).

Nevertheless, Applicant respectfully reiterates that Carrott is non-analogous art and cannot be applied as a reference in a 35 U.S.C. § 103(a) rejection, and that Li in isolation does not show or suggest the limitations of independent Claims 1, 23 and 32.

For any or all of the reasons above, Applicant respectfully submits that the basis for rejecting Claims 3, 10, 12, 16-17, 19-22, 25, 27, 34 and 38 under 35 U.S.C. § 103(a) is traversed.

Conclusions

In light of the above remarks, Applicant respectfully requests reconsideration of the rejected claims.

Based on the arguments presented above, Applicant respectfully asserts that Claims 1-40 overcome the rejections of record, and therefore Applicant respectfully solicits allowance of these claims.

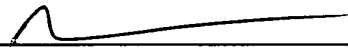
The Applicant has reviewed the references cited but not relied upon, and did not find these references to show or suggest the present claimed invention: U.S. Patent Nos. 6,681,031, 6,990,233, 6,115,052, 6,771,818, 7,003,136 and 7,035,433, and U.S. Patent Application Publication Nos. 2004/0218788, 2004/0189720, 2004/0037450 and 2002/0028003.

The Examiner is invited to contact Applicant's undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

WAGNER, MURABITO & HAO LLP

Date: 3/15/07



John P. Wagner, Jr.
Registration No. 35,398

Westridge Business Park
123 Westridge Drive
Watsonville, CA 95076